

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2005-011810-002 DT

02/23/2006

HONORABLE A. CRAIG BLAKEY II

CLERK OF THE COURT
D. Weller
Deputy

FILED: 02/27/2006

STATE OF ARIZONA

TOPHAS ANDERSON

v.

CINDY MARIE SAYAN (002)

FRANCES GRAY

VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

This matter has been under advisement on Defendant's Motion to Suppress Evidence and Statements. The Court has considered the motion, the State's Response and the Defendant's Reply thereto, as well as the testimony and the exhibits presented at the parties' Evidentiary Hearing on said motion,

THE COURT FINDS that, under the circumstances, it was appropriate for Sergeant Holland to request identification from the Defendant. Having lawfully done so, it was also appropriate for Sergeant Holland to conduct a records check which revealed an outstanding warrant. In light of the warrant, the Defendant was properly placed under arrest, both the Defendant and Sergeant Holland agreeing that the arrest took place in the Target store's parking lot.

THE COURT FURTHER FINDS that Sergeant Holland conducted a lawful search of the inside of the vehicle, but did not have lawful authority to search the trunk. The testimony was that Sergeant Holland only opened the trunk in order to store items he found inside the passenger compartment and not because he felt he had probable cause to conduct a further search.

THE COURT FURTHER FINDS that there would not have been the inevitable discovery of the contents stored in the trunk because the officer did not, until his unlawful search, have any intention of impounding the car. Again, the Sergeant's intent was to store items to protect them from either theft or weather. However, rather than simply store the items, the Sergeant went through bags found in the trunk when there was no cause to do so. Furthermore, the Court finds that the Target store never requested the car to be removed from its parking lot.

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THE COURT FURTHER FINDS that Defendant's purse was lawfully searched and that, except in relation to statements made by the Defendant in the parking lot regarding the contents of the trunk, there were no Miranda violations. Therefore,

IT IS ORDERED granting the Defendant's motion to suppress any evidence found during Sergeant Holland's and Officer Eckenroth's search of the trunk, as well as any statements made by the Defendant concerning the contents of said trunk.

IT IS FURTHER ORDERED denying Defendant's motion to suppress any evidence found within the passenger compartment of Ms. Sayan's car or from within her purse.

IT IS FURTHER ORDERED denying Defendant's motion to suppress any statements made by Defendant prior to Sergeant Holland's search of the trunk or after she was given her Miranda rights.